



January 8, 2004

Mr. Steve Tuber
Acting Assistant Regional Administrator
Office of Partnerships and Regulatory Assistance
United States Environmental Protection Agency
999 18th Street, Suite 300
Denver, CO. 80202

Re: CERCLA Off-Site Rule-January 3, 2003 Notice of Unacceptability
Cotter Corporation Canon City Milling Facility

Dear Mr. Tuber,

On September 29, 2003 the U.S. Environmental Protection Agency issued a letter relative to the status of Cotter's Canon City Milling Facility and the Agency's Off-Site Rule determination. In the letter's summary, and as requested at page 3 under item one of the "Combination Issue", the Agency stated that the "final issue will be considered resolved when Cotter obtains the required DOE concurrence and commitment letter that addresses the past disposal of vanadium and other non-type 2 materials into the impoundment". Cotter met with the Agency for clarification and convened a meeting with DOE representatives on October 14, 2003 to determine the specific information needed by DOE in order to make such a finding. That information was compiled and transmitted to Mr. Art Kleinrath in draft per his request on November 5, 2003. DOE then completed its review and the finalized letter was transmitted to DOE on December 18, 2003 (Attachment A). In response to this request Cotter was issued a letter from the DOE on December 31, 2003 finding that the non-11e.(2) activities described "should not inhibit transfer of the site" and that "if the State of Colorado does not exercise its option for long-term custodial care, DOE is prepared to take title to the land and the non-11e.(2) by product material at the Canon City site" (Attachment B). Based upon this finding, all issues relative to the OSR Notice of Unacceptability (as it pertains to the Canon City Mill tailing impoundments) have been resolved.

If you should have any questions regarding this matter please contact me.

Sincerely,

Steven D. Landau
Manager, Environmental Affairs

cc. Terry Brown, USEPA
Steve Tarlton, CDPHE